

BEFORE THE COUNTY COURT OF DESOTO COUNTY, MISSISSIPPI

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STATE OF MISSISSIPPI, CITY OF HERNANDO , PLAINTIFF

VS. CAUSE NO.: S2020-0005

GEORGE WALKER WELCH, DEFENDANT

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TRANSCRIPT OF PROCEEDINGS HAD AND DONE IN THE BENCH TRIAL  
OF THE ABOVE STYLED AND NUMBERED CAUSE, BEFORE THE  
HONORABLE ALLEN B. COUCH, JR., COUNTY COURT JUDGE, AT  
APPROXIMATELY 1:15 P.M. ON THE 28TH DAY OF SEPTEMBER,  
2020.

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APPEARANCES:

REPRESENTING THE PLAINTIFF:

HONORABLE ELIZABETH PAIGE WILLIAMS, ESQ.  
Williams & Williams  
217 West Center Street  
Hernando, Mississippi 38632  
662-449-4305

REPRESENTING THE DEFENDANT:

HONORABLE JOHN KEITH PERRY, JR., ESQ.  
Perry Griffin, PC  
5699 Getwell Road, Building G5  
Southaven, Mississippi 38672  
662-536-6868

MICHELLE A. BROWN, CCR #1395  
DeSoto County Official Court Reporter  
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EXHIBIT "J"

1 HAD BETWEEN THE COURT AND COUNSEL AS  
2 FOLLOWS:)

3 BY MR. PERRY: Your Honor, at four o'clock  
4 -- at the time this was set, I didn't know this.  
5 I have a four o'clock meeting with the board of  
6 supervisors in Tunica. I'm the board attorney,  
7 and it's a budget meeting. I just wanted to  
8 mention that.

9 THE COURT: I won't be long.

10 BY MR. PERRY: I've got a lawyer from my  
11 office here if there's an instance. I don't  
12 want to rush you or anything like that. I just  
13 wanted to --

14 THE COURT: I'm not going to be long. What  
15 time do you need to leave here?

16 BY MR. PERRY: I can make it to Tunica in  
17 -- I mean, if I leave at 3:30. So that's all I  
18 was saying.

19 THE COURT: Oh, well, I can assure you I  
20 won't be that long.

21 BY MR. PERRY: Yes, sir.

22 (WHEREUPON, THE CONFERENCE AT THE BENCH WAS  
23 CONCLUDED AND THE COURT RETIRED TO CHAMBERS  
24 TO DELIBERATE, AFTER WHICH THE FOLLOWING  
25 PROCEEDINGS TOOK PLACE.:)

26 THE COURT: In this case, I think it all  
27 comes down to the underlying reason for the  
28 arrest, and there is no dispute about the actual  
29 physical confrontation between the Defendant and

1           the officer. So the question is did the officer  
2           have grounds to make a lawful arrest, and that  
3           means focusing on the charge of obstruction of  
4           traffic. And when I look at the definition of  
5           "obstruct," Merriam-Webster defines it as, "To  
6           block up or close up by an obstacle; to hinder  
7           from passage, action, or operation."

8           Blacks Law dictionary, our bible, defines  
9           it as, "To block up, interpose obstacles or to  
10          render impassable." And I've look at some of  
11          the other surrounding circumstances in -- I  
12          guess, in statutes or lack thereof. There has  
13          been no testimony that it was illegal to  
14          actually park on the street, no testimony that  
15          there were no parking signs, or that there is  
16          some statute or city ordinance that does not  
17          allow parking on the street.

18          So it all, again, comes down to did this  
19          fall under obstruction. Now, this is a two-lane  
20          street, and we heard testimony from a resident  
21          of the street that there are cars parked on this  
22          street all the time. And because it's a  
23          two-lane street, any time a car is parked on the  
24          street, unless it pulls completely into the  
25          yard, some portion of it is going to block the  
26          roadway. And the photographs that were entered  
27          into evidence in this case show that Mr. Welch's  
28          vehicle blocked, you know, probably 80 percent  
29          of one lane of traffic but did not go into the

1           opposing lane of traffic.

2           And so, again, I look at what is  
3           "obstruct", and I think any definition of  
4           "obstruct" means you can't move. Whereas,  
5           Black's says -- and this, to me, really jumped  
6           off the page -- "to render impassable." This  
7           was not impassable. The officers that were  
8           there, were able to get around. No one was  
9           prohibited from getting around this vehicle.

10          Mr. Perry made reference to 63-3-901, which  
11          is a list of places where stop and standing and  
12          parking a vehicle is prohibited. And, of  
13          course, it didn't fall under any of those. But  
14          I think our operable statute here refers to  
15          actually blocking traffic or obstructing it, and  
16          I just don't think that this is -- meets the  
17          definition of obstruction by any reasonable  
18          reading of the statute or the definition of the  
19          word "obstruct". Cars were able to pass  
20          through. There's no prohibition against --  
21          legal prohibition against him parking there.  
22          Now, there may be homeowners rules or  
23          restrictive covenants, but that's not a crime.

24          So we turn to the resisting arrest, and  
25          it's well-established that an individual has the  
26          right to use reasonable force to resist an  
27          unlawful arrest. The testimony of the defendant  
28          was that the defendant refused to comply and put  
29          his hands behind his back. He didn't strike the

C E R T I F I C A T E

STATE OF MISSISSIPPI:

COUNTY OF TATE:

I, MICHELLE A. BROWN, Certified Court Reporter and Notary Public for the State of Mississippi at Large, do hereby certify that I reported in machine shorthand Pages 1-67 of the above-captioned proceedings.

I HEREBY CERTIFY that the foregoing pages contain a full, true and correct transcript of my said stenotype notes and digital recording then and there taken.

I FURTHER CERTIFY that I am not an attorney or counsel of any of the parties, nor a relative or employee of any of the parties, nor am I a relative or employee of any attorney or counsel connected with the action, nor am I financially interested in the action.

I FURTHER CERTIFY that in order for this document to be authentic and genuine, it must bear my original signature and my embossed notarial seal and that any reproduction in whole or in part of this document is not allowed or condoned and that such reproductions should be deemed a forgery.

THEREFORE, witness my hand and my official seal in the State of Mississippi on February 8, 2021.

  
MICHELLE A. BROWN, CSR #1395  
Notary Public at Large

My Commission Expires:  
September 3, 2024

